

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
OFFICE OF THE CLERK



1999

ATTORNEY HANDBOOK

This handbook is provided as a supplement to the Local Civil Rules of the United States District Court for the Northern District of Texas. It highlights administrative information and provides guidelines for specific procedural areas that have been troublesome for many attorneys. We hope this information will minimize problems or delays when filing documents. The Federal Rules of Civil Procedure and the Local Civil Rules of the Northern District of Texas govern if there is a conflict between this handbook and those rules.

The Court considered and adopted amendments to the Local Rules that became effective April 15, 1998. These revisions are found in Attachment XXIX.

In our continuous effort to provide better service and information to the public, we welcome any comments or suggestions for improving this guide. Please send your comments to:

Nancy Doherty
Clerk of Court
United States District Court
1100 Commerce Street, Room 14A20
Dallas, Texas 75242-1003

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I. OFFICE OF THE DISTRICT CLERK - LOCATIONS AND OFFICE HOURS

A. Inquiries

Court-related inquiries or questions about cases filed in the Northern District of Texas should be directed to the District Clerk's Office in the division where the case is filed.

B. Divisional Offices

The Northern District of Texas has seven divisional offices (see Attachment XXXII for directions to the offices). Divisional offices and the counties each serves are as follows:

- 1. Abilene Division:** serves Callahan, Eastland, Fisher, Haskell, Howard, Jones, Mitchell, Nolan, Shackelford, Stephens, Stonewall, Taylor and Throckmorton counties

Deputy-In-Charge

Marsha Elliott (915) 677-6311
341 Pine Street, Room 2008
Abilene, Texas 79601-5928

- 2. Amarillo Division:** serves Armstrong, Brisco, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hall, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher and Wheeler counties

Manager, West Texas Divisions/Deputy-In-Charge

Lynn Sherman (806) 324-2352
205 E. Fifth, Room 133
Amarillo, Texas 79101-1559

3. **Dallas Division** (District Headquarters): serves Dallas, Ellis, Hunt, Johnson, Kaufman, Navarro and Rockwall counties

CLERK OF COURT

Nancy Doherty (214) 753-2200
1100 Commerce, Room 14A20
Dallas, Texas 75242-1003

Chief Deputy

Karen Mitchell (214) 753-2200

Operations Manager

Sheila Kelly (214) 753-2156

Administrative Services Manager

Richard Holt..... (214) 753-2205

Quality Assurance Manager

Autumn Yarnell (214) 753-2160

Case Information for District Judges

Chief Judge BUCHMEYER (**R**) (214) 753-2176
Judge FISH (**G**)..... (214) 753-2179
Judge MALONEY (**T**)..... (214) 753-2175
Judge FITZWATER (**D**)..... (214) 753-2180
Judge SOLIS (**P**) (214) 753-2183
Judge KENDALL (**X**) (214) 753-2177
Judge SANDERS (**H**)..... (214) 753-2184
Judge LINDSAY (**L**)..... (214) 753-2181

Case Information for Magistrate Judges

Magistrate Judge SANDERSON (**AH**)(214) 753-2169
Magistrate Judge BOYLE (**BC**) (214) 753-2167
Magistrate Judge KAPLAN (**BD**)(214) 753-2165
Magistrate Judge STICKNEY (**BF**)(214) 753-2168

Appeals

Civil Cases..... (214) 753-2173
Criminal Cases..... (214) 753-2174

General Information (214) 753-2200

Records File Room..... (214) 753-2196

- 4. Fort Worth Division:** serves Comanche, Erath, Hood, Jack, Palo Pinto, Parker, Tarrant and Wise counties

Manager, Fort Worth Division

Pam Murphy (817) 978-3132
501 West 10th Street, Room 310
Fort Worth, Texas 76102-3673

- 5. Lubbock Division:** serves Bailey, Borden, Cochran, Crosby, Dawson, Dickens, Floyd, Gaines, Garza, Hale, Hockley, Kent, Lamb, Lubbock, Lynn, Motley, Scurry, Terry and Yoakum counties

Deputy-In-Charge

Kristy Weinheimer..... (806) 472-7624
1205 Texas Avenue, Room C-221
Lubbock, Texas 79401-4091

- 6. San Angelo Division:** serves Brown, Coke, Coleman, Concho, Crockett, Glasscock, Irion, Menard, Mills, Reagan, Runnels, Schleicher, Sterling, Sutton and Tom Green counties

Deputy-In-Charge

Beverly Roper (915) 655-4506
33 E. Twohig Street, Room 202
San Angelo, Texas 76903-6451

- 7. Wichita Falls Division:** serves Archer, Baylor, Clay, Cottle, Foard, Hardeman, King, Knox, Montague, Wichita, Wilbarger and Young counties

Deputy-In-Charge

Allison Terry (940) 767-1902
1000 Lamar Street, Room 203
Wichita Falls, Texas 76301-3431

C. Public Office Hours

All divisional offices are open Monday through Friday, except legal holidays, during the following hours:

Abilene:	8:30 a.m.	to	12:00 noon
	1:00 p.m.	to	4:30 p.m.
Amarillo:	8:30 a.m.	to	12:00 noon
	1:00 p.m.	to	4:30 p.m.
Dallas:	8:30 a.m.	to	4:30 p.m.
Fort Worth:	8:30 a.m.	to	4:30 p.m.
Lubbock:	8:30 a.m.	to	12:00 noon
	1:00 p.m.	to	4:30 p.m.
San Angelo:	8:30 a.m.	to	12:00 noon
	1:00 p.m.	to	4:30 p.m.
Wichita Falls:	8:30 a.m.	to	12:00 noon
	1:00 p.m.	to	4:30 p.m.

A party who desires to drop off a pleading without visiting the Clerk's Office in Amarillo, Dallas, Fort Worth, or Lubbock may use a designated drop box located on the first floor. The drop box is available between 7:30 a.m. and 6 p.m., Monday through Friday, except legal holidays. Pleadings left in a drop box between 7 a.m. and noon will be ready for pick-up between 3 p.m. and 4:30 p.m. on the same business day. Pleadings left between noon and 6 p.m. will be file stamped the day they are placed in the box and will be ready for pick-up by 10 a.m. the following business day. Any pleading that must be accompanied by a filing fee should not be left in a drop box. (The Clerk's Office accepts filing of new complaints only during regular business hours.)

D. Legal Holidays

The District Clerk's Office will be closed on the following holidays:

New Year's Day	Martin Luther King, Jr.'s Birthday
President's Day	Memorial Day
Independence Day	Labor Day
Columbus Day	Veterans Day
Thanksgiving Day	Christmas Day

II. GENERAL PROCEDURES

A. Attorneys

1. Admission to Practice in the Northern District of Texas

Attorneys seeking admission to practice in the Northern District of Texas should refer to LR 83.7 and LCrR 57.7. General procedures for admission are outlined below.

a. Procedure for Taking Oath in the Northern District

An attorney must obtain an Application for Admission to the Bar of the United States District Court for the Northern District of Texas (see Attachment I) from the District Clerk's Office if he/she will be taking the oath of admission in the Northern District. The attorney must complete the Application and have it notarized, or obtain certification from the District Clerk's Office for a fee of \$5.00.

After completing the Application for Admission, the attorney must be sworn in to the bar by a District Judge in the Northern District. The attorney should make an appointment to be sworn in through one

of the District Judges' secretaries. Another attorney who is currently admitted to practice in the Northern District must accompany the applying attorney to the swearing in and be willing to speak on his/her behalf.

After being sworn in, the attorney should bring the Application for Admission and a \$75.00 fee to the United States District Clerk's Office. The Clerk's Office will mail a Certificate of Admission to the attorney within one week.

b. Procedure for Taking Oath in Another District

A non-resident attorney may, with the permission of a District Judge in the Northern District, have the oath of admission administered by a United States District Judge in another district. To accomplish this, the attorney must obtain the Application for Admission to the Bar of the United States District Court for the Northern District of Texas (Oath to be Taken in Another District) from the Clerk's Office (see Attachment II). The attorney must complete the Application, have it notarized, and return it to the District Clerk's Office in the appropriate division in the Northern District of Texas.

After a District Judge in the Northern District of Texas reviews the completed Application and signs an order allowing the attorney to be sworn in, the District Clerk's Office will mail out a letter of instructions, an oath to be taken before a United States District Judge in another district, and a certified copy of the order allowing the attorney to be sworn in.

The applying attorney is responsible for making arrangements to be sworn in by a United States District Judge in another district. After being sworn in, the attorney must return the executed oath to the District Clerk's Office, together with a check for \$75.00 payable to ~~A~~Clerk, United States District Court.[@] The District Clerk's Office will mail a Certificate of Admission and a packet of information to the attorney after receipt of the oath and fee.

If the oath and admission fee are not returned within 90 days, the Application will be vacated by the District Clerk's Office and returned to the applying attorney.

2. Taking Oath of Admission for Another District Court

An attorney seeking admission to practice in another district must follow the admission procedures of that district. If the attorney wants a District Judge in the Northern District to administer the oath of admission for the other district, the attorney may make an appointment through the District Judge's office to be sworn in.

3. *Pro Hac Vice* Appearances

An attorney not admitted to practice in the Northern District may represent a party in proceedings in the Northern District only by permission of the presiding judge (see LR 83.9 and LCrR 57.9). Permission is typically requested by filing a Motion to Proceed *Pro Hac Vice*. An exception has been granted for an attorney appearing on behalf of the United States Department of Justice or the Attorney General for the State of Texas (see LR 83.11 and LCrR 57.11).

An attorney applying for *pro hac vice* status must affirm in writing that he/she has read and will comply with *Dondi Properties Corp. v. Commerce Savs. & Loan Ass'n*, 121 F.R.D. 284 (N.D. Tex. 1988) (en banc) and the Local Rules of the Northern District of Texas (LR 83.9). An attorney appearing *pro hac vice* becomes subject to the rules of this Court.

4. Requirement of Local Counsel

LR 83.10 and LCrR 57.10 require an attorney not residing or maintaining an office in the Northern District of Texas to designate local counsel (unless exempt by LR 83.11 or LCrR 57.11). A member of the bar of the Northern District of Texas who resides or maintains an office in the division in which the suit is pending (or within 50 miles thereof) may serve as

local counsel. Local counsel must be authorized to present and argue the client's position at any hearing called by the Court and to perform any duty required by the Local Rules of the Northern District.

In lieu of designating local counsel, an out-of-district attorney may seek to obtain leave from the presiding judge to appear without local counsel or to designate local counsel outside the scope of the rule. Such a request should be presented in a written or oral motion.

5. Certificate of Good Standing

An attorney may make a written request for a Certificate of Good Standing from the District Clerk's Office. The Certificate of Good Standing verifies that the attorney is a member in good standing with the Court. The written request must include the attorney's full name, state bar number, and the date the attorney was admitted to practice in the Northern District of Texas. There is a \$15.00 fee for this service.

6. Change of Address

An attorney who changes a business name or address must, within thirty days, file notice of the change with the Clerk's Office on a Federal Bar Membership Update form (see LR 83.13 and LCrR 57.13). Forms are available in the District Clerk's Office (see Attachment III). Failure to comply with this rule may result in orders being sent to the wrong location.

B. Fees of the United States District Court, Northern District of Texas

All checks for required fees should be made payable to "Clerk, United States District Court." For a complete listing of fees charged by the U. S. District Court, refer to Attachment IV, Fee Schedule.

C. Requests for Reproduction of Documents

1. Photocopies

Parties may not remove case files from the Clerk's Office or remove pleadings from the files to copy them. Several options are available for copying records (see Attachment XXVIII). Coin and card operated copy machines are located in the lobbies of the Dallas and Fort Worth divisions of the District Clerk's Office for use by the public. Also, the District Clerk's Office will copy up to fifteen pages for a fee of \$0.50 per page. Payment for copies must be made in advance. Persons making copy requests from out of town are encouraged to first obtain a copy of the Court's docket sheet to determine which documents need to be copied and the number of pages of each document.

There is no fee for copy requests made by attorneys representing the United States Government or its agencies. State and county agencies must, however, pay all applicable charges.

For copy requests greater than fifteen pages, arrangements have been made with outside copy services in most divisional offices. Copies may be picked up at the Clerk's Office or at the copy service with no delivery fee, or they can be delivered to locations within an established service area for an additional fee. Contact the Clerk's Office in the division where the case file is located for specific information on the outside copy service.

2. Certified Copies

There is a \$5.00 fee per document for certified copies and a \$0.50 copy fee for each page. Certified copies may only be made by the District Clerk's Office unless approval is given by the Operations Manager or deputy-in-charge.

3. Apostilles

An Apostille may be prepared only for a country that is a party to the Hague Convention. See the most recent edition of the *Martindale Hubbell*

International Law Digest, ASelected International Conventions@ section, for a listing of parties to the Hague Convention.

The District Clerk's Office will execute an Apostille only for a document filed in a case in its custody. For all other documents contact:

Office of Foreign Litigation
Civil Division, Dept. of Justice
Washington, D.C. 20530
(202) 514-7455

4. Transcripts and Depositions

Requests for deposition and trial transcripts should be made through the appropriate court reporter. The identity of the court reporter is contained within the deposition or transcript. A transcript order form can be found in Attachment V. If the transcript has been filed, a copy may be obtained from the Clerk's Office.

5. Closed Files

Closed files remain in the District Clerk's Office for a minimum of two years. In most cases, if a case has been closed for more than two years, the record has been transferred to the Federal Records Center (FRC) in Fort Worth.

The FRC accepts copy requests by letter or fax. Members of the public may also visit the FRC to view or copy a file. **You must obtain the FRC accession number, agency box number, and location number from the United States District Clerk's Office in the division where the case was terminated before contacting the FRC.** You may call or write to the appropriate divisional office to request this information.

To schedule an appointment to view or copy a closed file, contact the FRC at the address or telephone number listed on the following page.

Federal Records Center
501 Felix
Fort Worth, Texas 76115
(817) 334-5515

You may request that a closed file or docket sheet be delivered to one of the divisional offices for viewing or copying in that office. There is a \$25.00 retrieval fee per file or docket sheet for this service. Any copying charges incurred are in addition to the \$25.00 retrieval fee. See Attachment XXV for more information on FRC services.

III. COMMENCEMENT OF A CIVIL ACTION

Cases are randomly assigned to District Judges and Magistrate Judges. The District Clerk has no discretion in the assignment of cases (see LR 83.3 and LCrR 57.3).

A. Requirements For All New Civil Cases

1. Civil Cover Sheet

An original and one copy of a completed Civil Cover Sheet (JS 44 Form) is required for each new case filed (see Attachments VI and VII). The party filing the action must prepare the Civil Cover Sheet in accordance with the instructions on the back of the form and present it for filing. In cases originally filed in state court and removed to the Northern District of Texas, a Supplemental Civil Cover Sheet (see Attachment VIII) must also be completed and attached to the original and copy of the Civil Cover Sheet.

2. Filing Fee

Filing fees are payable to the Clerk, United States District Court. The filing fee for a regular civil action is \$150.00. The filing fee for a Petition for *Writ of Habeas Corpus* is \$5.00. No filing fee is required for a Petition for Stay of Execution, nor for a Motion under 28 USC 2255 to Vacate Sentence.

A party who cannot afford to pay the requisite filing fee may submit a motion to proceed *in forma pauperis* with supporting affidavit contemporaneously with the complaint. If the motion to proceed *in forma pauperis* is granted, no filing fee will be required.

The Clerk will refuse to file a complaint unless the filing party submits the full filing fee on a motion to proceed *in forma pauperis*.

3. Service of Process

A plaintiff filing a new lawsuit has two options regarding service. One of the following should be presented with each new complaint: (a) Summons or (b) Waiver of Service of Summons.

a. Summons

(i) Completion of Summons

A summons is required for each defendant named as a party to the suit (see Attachment IX). The following information should be typed or printed on the summons: (a) the name of the first plaintiff (followed by *et al.* if there is more than one plaintiff), (b) the name of the first defendant (followed by *et al.* if there is more than one defendant), (c) the name and address of the defendant being served, (d) the name and address of the plaintiff's attorney (or the name of the *pro se* litigant), and (e) the number of days the defendant has to answer.

(ii) Issuance of Summons

To be valid, a summons must be issued by the District Clerk's Office. To issue a summons, a deputy of the District Clerk's Office signs, dates, and seals the summons.

(iii) Number of Required Summonses

The attorney or *pro se* litigant should complete and submit for issuance three summonses for each defendant named in the complaint. Two summonses will be returned to the filing party by the District Clerk: one for service with the complaint to the defendant and one to be used as a return of service. The third is retained for the District Clerk's record. The filing party should bring an additional summons if he/she wishes to retain a copy.

When service is to be made through the Secretary of State, the Commissioner of Insurance, or the Commissioner of Highways, four summonses must be submitted for issuance. Three are returned to the filing party for service on the Secretary or Commissioner. The fourth is retained for the District Clerk's record.

No summons will be issued for cases removed from state court unless service was: (a) not issued in state court or (b) was defective. Also, unless ordered by the presiding judge, summonses will not be issued in cases where *in forma pauperis* status is granted.

(iv) Service of Summons

Service of a summons together with a copy of the complaint must be made pursuant to Rule 4 of the Federal Rules of Civil Procedure. Rule 4(c)(2) provides for personal service by anyone eighteen years of age or older who is not a party to the suit. Other methods of service are described below.

(1) Service by the United States Marshal

The United States Marshal's Office will effectuate service if ordered by the Court. A completed USM Form 285, the summons, and attached complaint are required for each defendant. In cases where the

United States Marshal is going to effect service, the USM Form 285 may be obtained from the United States Marshal's Office.

(2) Service by Mail

Service of summons may be made by mailing a copy of the summons and a copy of the complaint to each defendant by registered or certified mail, return receipt requested. See Rule 4(e)(1) of the Federal Rules of Civil Procedure and Rule 106 of Texas Rules of Civil Procedure.

(3) Service through the Secretary of State

For service through the Secretary of State in Austin, Texas, please refer to the Texas Long Arm Statute (set forth at Tex. Civ. Prac. & Rem. Code Ann., '17.041 *et seq.*). Two summonses with copies of the complaint are required for each defendant. Contact the Secretary of State's Office for information regarding the appropriate fee.

(4) Service on the United States

Rule 4(i) of the Federal Rules of Civil Procedure governs service on the United States of America, the Attorney General, and the agencies, officers, employees and corporations of the United States. The United States Attorney's Office can be served personally or via registered or certified mail addressed as follows:

Civil Process Clerk
U.S. Attorney for the Northern District of Texas
Division Name
Address
City, State & Zip Code

See Attachment XIII for more information on filing a civil suit against the United States.

(5) Service on a Foreign Country

To serve a foreign country or party in a foreign country, refer to the most recent edition of the *Martindale-Hubbell International Law Digest*, ASelected International Conventions@section. If you need additional assistance, contact:

Office of Foreign Litigation
Civil Division, Department of Justice
Washington, D.C. 20530
(202) 514-7455

(6) Service by Publication

Upon order of the Court, the United States Marshal will serve a summons by publication.

b. Waiver of Service of Summons

Rule 4(d)(2) of the Federal Rules of Civil Procedure provides for waiver of service of summons when the defendant is subject to service under subsection (e), (f), or (h) of Rule 4. Waiver is accomplished when: (a) the plaintiff provides each defendant a written Notice of Lawsuit and Request for Waiver of Service of Summons form and a Waiver of Service of Summons form and (b) the Waiver of Service of Summons is returned by the defendant. These forms are available in the District Clerk's Office (see Attachments X and XI).

A plaintiff seeking waiver must send the Notice of Lawsuit and Request for Waiver of Service, the Waiver of Service of Summons form, and a copy of a newly filed civil complaint to the defendant. The

defendant may sign the waiver agreeing to waive service by summons or may decline to waive service using the same form.

A defendant who is served with a Notice of Lawsuit and Request for Waiver of Service must return the executed Waiver of Service of Summons form to the plaintiff, either waiving service or declining to waive service, within thirty days from the date the Notice of Lawsuit and Request for Waiver of Service form was mailed. An answer must be filed within sixty days from the date the plaintiff mailed the waiver. The only exception to this rule is for defendants in foreign countries who will be allowed sixty days to return the waiver and ninety days to file an answer. Note that all deadlines are calculated from *date of mailing*, not from date of receipt.

4. Complaint

Each document filed with the District Clerk (except exhibits or unless otherwise provided by local rule) must be on **letter-sized paper (8-1/2" x 11")** **stapled** in the upper left-hand corner and **two-hole punched** at the top. Additionally, the document should be **typed or legibly handwritten** on **numbered pages**. If the document is too large to staple, the top should be secured with metal prongs or other durable fasteners.

The correct heading for a new complaint is shown on the following page.

EXAMPLE (COMPLAINT):

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
(Insert Appropriate City) DIVISION

_____	.	
Plaintiff's Complete Name	.	
(List All)	.	
	.	
v.	.	Civil Action No: _____ ¹
	.	
_____	.	
Defendant's Complete Name		
(List All)		

ORIGINAL COMPLAINT

The original complaint must list **all parties** in the style of the case. **The abbreviation *et al.* must not be used in an original complaint.** An original and one copy of the complaint are required for filing. An attorney should bring any additional copies he/she wants file stamped.

Each civil action is assigned a case number by the District Clerk's Office, and a presiding judge is chosen by random draw. The case number is composed of five parts. The first digit is the division where the case was filed (1: Abilene, 2: Amarillo, 3: Dallas, 4: Fort Worth, 5: Lubbock, 6: San Angelo, and 7: Wichita Falls). For example, a case filed in Amarillo would start with 2 and Dallas with 3. After the division number and colon is the year the case was filed (e.g., 97, 98) and "cv" for civil. This is followed by the sequential case number, a hyphen, and the alpha designation of the District Judge assigned to the case.

Sample Case Number: 3:98-CV-0001-H

The sample above would be the first civil case filed in the Dallas Division in 1998, and it would be assigned to Senior Judge Sanders.

¹ The case number will be assigned by the District Clerk's Office at the time of filing.

To file a complaint, the attorney or *pro se* litigant must have an original signature on the complaint and on any pleadings filed with the complaint. The signature block must consist of the attorney's (or *pro se* litigant's) name typed or printed under the signature, the attorney's state bar number, the address (law firm name, street, including suite number, city, state, and zip code), telephone number, and fax number (if available) of the attorney or *pro se* litigant.

5. Request to Seal

A party who desires to file a case under seal must, at the time the complaint is presented for filing, either present a motion to file the complaint under seal or demonstrate that a judge has ordered that the case be filed under seal (see LR 79.3 and LCrR 55.3 in Attachment XXIX).

6. Jury Demand

There is no fee in federal court for filing a jury demand. The jury demand may be filed as a separate pleading or may be requested in the complaint. If requested in the complaint, the title of the complaint must also state “. . . AND JURY DEMAND.” **Designating a jury demand on the Civil Cover Sheet alone does not constitute a proper request.**

7. Consent to Proceed Before a Magistrate Judge

The Court has experienced magistrate judges available to try jury and non-jury civil cases pursuant to 28 U.S.C. § 636. The Court encourages parties to consent to trial before a magistrate judge. Consent forms are available in the Clerk's Office (see Attachment XXX).

B. Specific Types of Actions

1. Notice of Removal

When a civil case is removed from state court to United States District Court (see Rule 81(c) of the Federal Rules of Civil Procedure and 28 U.S.C. §1441 *et seq.*), there is a \$150.00 filing fee. The removing party must submit an original and one copy of a completed JS 44 Civil Cover Sheet Attachment VI, a Supplemental Civil Cover Sheet for the original and copy of the Civil

Cover Sheet, and an original and one copy of the Notice of Removal. Each document should be two-hole punched at the top. Typically, no summons will be issued for cases removed from state court (see 28 U.S.C. § 1448: Process After Removal).

The style of the Notice of Removal must be identical to the style of the original petition filed in state court. All parties must be listed in the style of the case. **Use of the abbreviation "*et al.*" is not acceptable in a Notice of Removal.** The Notice of Removal must also contain a certificate of service signed by the party or attorney stating that service has been effected as required.

An attorney filing a Notice of Removal and state court papers in a case pending in the Fort Worth Division must comply with L.R. 81.1 and with Revised Miscellaneous Fort Worth Order 4-217 (see Attachment XIV).

2. Application for Writ of Garnishment

In general, parties should follow the Texas State Court Rules when applying for a Writ of Garnishment (see Tex. Civ. Prac. & Rem. Code Ann. § 63.001, *et seq.*). The filing fee for an application for Writ of Garnishment is \$150.00. The filing party is responsible for providing an original and one copy of a completed application. In pre-judgment cases, a proposed order to issue the writ must also be submitted.

3. Transfer of Bankruptcy Matters to the District Court

The bankruptcy case number and/or adversary case number should be referenced on all pleadings filed in connection with bankruptcy matters transferred to the District Court. **Proposed orders should also reference the bankruptcy case number and/or adversary case number.** For more specific instructions regarding bankruptcy procedures, contact the Clerk of the Bankruptcy Court.

a. Appeals

To appeal the ruling of a Bankruptcy Judge, a Notice of Appeal must be filed in the Bankruptcy Court along with the appropriate filing fee made payable to the Bankruptcy Clerk. Within 30 days of the filing of the Notice of Appeal and appropriate fee, the Bankruptcy Clerk will transmit a "complete" or "deficient" record to the District Clerk's Office where it will be assigned a case number. A District Judge will then be chosen by random draw.

b. Leave to Appeal Interlocutory Bankruptcy Orders

To appeal an interlocutory bankruptcy order, a Motion for Leave to Appeal and a Notice of Appeal must be filed in the Bankruptcy Court. An acknowledgment of service must accompany the motion. Once responses are filed, the Bankruptcy Clerk will transmit the motion and accompanying papers to the District Clerk's Office. The District Clerk's Office will assign a case number, and a District Judge will be chosen by random draw.

c. Withdrawal of Reference

In a bankruptcy matter that may be tried by a District Judge, counsel may request that the case be heard in District Court by filing a Motion to Withdraw Reference with the Bankruptcy Clerk and submitting the appropriate filing fee. The Bankruptcy Clerk will transmit the Motion to Withdraw Reference to the District Clerk's Office where it will be assigned a case number. A District Judge will then be chosen by random draw to rule on the application. If the presiding District Judge grants the Motion to Withdraw Reference, the case will be heard in District Court in the usual manner.

4. Emergency Appeals From Bankruptcy Court

An emergency appeal from Bankruptcy Court is filed with the Clerk of the District Court or with the Bankruptcy Clerk. There is no filing fee. Before an emergency appeal may be filed, the attorney presenting the appeal must certify in writing to the District Clerk that the matter has been presented to and ruled on by a Bankruptcy Judge or that no Bankruptcy Judge is available. The District Clerk's Office will assign a case number, and a District Judge will be assigned by random draw. It is the responsibility of the filing party to present the emergency matter to the District Judge to whom the case is assigned.

The filing party must submit an original and one copy of a completed Certification Regarding Request for Emergency Hearing form and an original and one copy of a Motion to Stay to the Bankruptcy Clerk (see Attachment XXIV). The Bankruptcy Clerk will transmit the record to the District Clerk's Office.

5. Interpleader

An interpleader action is a civil action initiated by a party who has possession of money or property that is claimed by two or more other parties. The initiation of an interpleader action and deposit of the money or property with the Court may absolve a party of liability that could accrue if the property or money was given to an improper claimant.

Under 28 U.S.C. §1335, federal District Courts have original jurisdiction of interpleader actions if two conditions are met: (a) the money or property has a value of \$500 or more and (b) two or more of the adverse claimants are of diverse citizenship as defined in 28 U.S.C. §1332.

To file an interpleader action, the filing party is required to submit: (a) an original and one copy of the Complaint of Interpleader, (b) funds in the amount specified in the complaint*, and (c) an original and two copies of a completed Civil Cover Sheet. A \$150.00 filing fee is also required.

6. Federal Tort Claims

Parties seeking to pursue a federal tort claim should request an SF-95 claim form from the following agency:

Department of Justice, Federal Torts Branch
P.O. Box 888
Ben Franklin Station
Washington, D.C. 20044
(202) 616-4262

* The money is not required to be submitted with the complaint. The filing party may do so, but may also present the funds at a later date accompanied by a motion to deposit funds into the Registry of the Court.

IV. SUBSEQUENT FILINGS

A. Procedure

All subsequent filings must be submitted to the District Clerk's Office in the divisional office where the case was filed, **NOT** with the presiding judge to whom the case is assigned (see LR 5.1 and LCrR 49.2). To file a document in a divisional office other than where the case is pending, permission must be obtained from the presiding judge. If permission is granted, the presiding judge will notify the District Clerk that the document is to be filed in another divisional office.

B. General Requirements

Unless otherwise specified in the Federal Rules of Civil Procedure, the Local Rules for the Northern District of Texas, or this handbook, subsequent filings in a case should be submitted in duplicate. Original documents remain in the District Clerk's Office, and duplicates are forwarded to the presiding judge. The filing party may submit additional copies of each document he/she wants file stamped. A self-addressed, stamped envelope must be submitted if the filing party wants the stamped copy returned by mail.

Once a document is filed, the Clerk's Office cannot allow it to be altered in any way. A supplemental or amended pleading must be filed if changes are desired.

Documents filed in the Northern District should have the correct case style as indicated in the example shown below.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
(Insert Appropriate City) DIVISION

FIRST PLAINTIFF,	§	
<i>et al.</i>	§	
	§	Civil Action No.
v.	§	(Insert Assigned Case Number)
	§	
FIRST DEFENDANT,	§	
<i>et al.</i>	§	

TITLE OF PLEADING

Documents filed with the District Clerk's Office must also list the parties' names. It is acceptable to list the first plaintiff and first defendant followed by "*et al.*" on any document except the original complaint, amended complaint, notice of removal, any third-party action, or any pleading adding a party. Furthermore, each document (except exhibits or unless otherwise provided by local rule) must be on letter-sized paper (8-1/2" x 11") stapled in the upper left-hand corner and two-hole punched at the top. If the document is too large to staple, the top should be secured with metal prongs or other durable fasteners. The document should be typed or legibly handwritten on numbered pages. Exhibits to documents must also be stapled or bound together. If exhibits are not attached to a document, they must have a cover page which includes the heading, style, and case number. The title should indicate "Exhibits to" and the name of the document they support.

Each attorney or *pro se* litigant must have an original signature on documents filed with the District Clerk's Office. The signature block must consist of the attorney's (or *pro se* litigant's) name typed or printed under the signature, the attorney's state bar number and the address (law firm name, street, including suite number, city, state, and zip code), telephone number, and fax number (if available) of the attorney or *pro se* litigant.

C. Summary of General Requirements

The general information that should be included in subsequent documents filed with the District Clerk's Office is as follows:

1. name of the Court;
2. names of the parties;
3. case number, including the presiding judge's letter designation;
4. title of the pleading, to include every document contained in the pleading;
5. original signature of the *pro se* litigant or attorney with name, state bar number, firm, address, telephone number, and fax number;
6. certificate of service; and
7. an original and one copy of the entire document (including exhibits).

D. Request to Seal

A party who desires to file a document under seal must, at the time the document is presented for filing, either present a motion to file the document under seal or demonstrate that a judge has ordered that the document be filed under seal (see LR 79.3 and LCrR 55.3 in Attachment XXIX).

E. Special Additional Requirements for Motions

In addition to the general requirements for subsequently filed documents, certain motions must be accompanied by other papers as described below.

1. Brief or Memorandum of Law

A brief in Support of the Motion must be filed with certain motions (see LR 7.1, LCrR 47.1 and Attachment XXIII). The pleading should be titled "Motion and Brief in Support" if the brief is included in the motion.

Except by permission of the presiding judge, no brief shall exceed twenty-five pages in length (excluding the table of contents and table of authorities). A reply brief must not exceed ten pages. Permission to file a brief in excess of this page limitation will be granted only for extraordinary and compelling reasons (see LR 7.2 and LCrR 47.2).²

Briefs filed in bankruptcy appeals must comply with Federal Rules of Bankruptcy Procedure unless otherwise decided by the presiding judge.

Briefs exceeding ten pages in length shall contain a table of contents and a table of authorities. The table of authorities must include the cases (alphabetically arranged), statutes, and other authorities cited with page references to where each authority is cited in the brief.

2. Certificate of Conference

A Certificate of Conference is required for certain motions (see LR 7.1, LCrR 47.1, and Attachment XXIII). Attachment XV provides a general example of a Certificate of Conference.

² But see LR 56.5 concerning briefs in support of and in opposition to motions for summary judgment.

3. Proposed Order Granting the Motion

Most motions must be accompanied by Proposed Orders (see Attachment XXIII). A Proposed Order should be separate from the motion and should have a place for the presiding judge to sign if the motion is granted (see LR 7.1, LCrR 47.1, and LCrR 58.1).

F. Deficiencies

Pursuant to Rule 5(e) of the Federal Rules of Civil Procedure, the District Clerk may ". . . not refuse to accept for filing any paper presented for that purpose solely because it is not presented in proper form as required by these rules or any local rules or practices." The Court's policy is to accept any paper tendered for filing regardless of failure to comply with the Federal Rules of Civil Procedure or the Local Rules of the Northern District. The District Clerk's Office, however, does inspect papers for deficiencies and brings deficiencies to the attention of the presiding judge. The presiding judge may direct the District Clerk's Office to strike ("unfile") any deficient pleading using a standard order on the Notice of Deficiency form (see Attachment XVI). The District Clerk's Office may refuse to file any document that requires a fee, unless the appropriate fee has been paid or a judge has permitted a party to proceed without prepayment of fees (see LR 83.5).

V. DISCOVERY

A. Filing Discovery Items

In the Northern District of Texas, discovery items such as interrogatories and answers to interrogatories, requests for production or inspection, requests for admissions and responses, and initial disclosures under Rule 26(a)(1)-(2) of the Federal Rules of Civil Procedure *must not be filed with the District Clerk* except as provided below in section V. B. or by order of the presiding judge. A properly completed exception form authorized by LR 5.2 must be attached to discovery material that the presiding judge has ordered to be filed (see Attachment XVII). Unless otherwise directed by the presiding judge, objections to discovery should be presented in a motion.

B. Notice of Deposition and Issuance of Deposition Subpoena

An attorney may issue a subpoena on behalf of the court (civil cases only) without assistance from the District Clerk's Office pursuant to Rule 45(a)(3) of the Federal Rules of Civil Procedure. Subpoena forms for this purpose are available in the District Clerk's Office (see Attachment XXII).

A subpoena must issue from the court for the district in which the deposition is to be taken, which may or may not be the district where the case is pending. The subpoena may be served at any place within the district or at any place outside the district that is within 100 miles of the place of the deposition. However, a subpoena shall be quashed or modified if it requires a nonparty to appear for a deposition more than 100 miles from his/her residence or regular place of business or employment. Rule 45(c) of the Federal Rules of Civil Procedure provides details on subpoena limitations.

The District Clerk's Office will issue a deposition subpoena for cases pending in the Northern District on request if an original Notice of Deposition is on file or is presented for filing at the time the subpoena is to be issued. The information contained in the Notice of Deposition must be identical to information on the subpoena. The Notice of Deposition should include: (a) the name and complete address of the person(s) being deposed, (b) time of deposition, (c) date of deposition, (d) complete address of location where the deposition is to be taken, and (e) an originally signed certificate of service. An exception form is not necessary for filing the Notice of Deposition.

To issue a subpoena for a case filed in another district (a "foreign subpoena"), the Northern District of Texas requires a photocopy of the Notice of Deposition. The copy must include the attorney signature page and the completed certificate of service page. Also, there is a \$20.00 fee *per notice* (not per name) payable to "Clerk, United States District Court".

Rule 45(b)(1) of the Federal Rules of Civil Procedure states that a subpoena which commands a person's attendance must be accompanied by ". . . the fees for one day's attendance and the mileage allowed by law." For assistance in determining the precise amount that must be tendered with a deposition subpoena, attorneys should refer to 28 U.S.C. §1821.

VI. POST-JUDGMENT INSTRUMENTS

A. Appeal From Decision of United States District Judge

An appeal from any case heard by a United States District Judge shall be taken to the appropriate appeals court. The Notice of Appeal is filed with the District Clerk and must be accompanied by an appeal fee of \$105.00 or a motion to file *in forma pauperis*.

In civil proceedings, an aggrieved party generally has thirty days from entry of judgment or other appealable disposition to file the Notice of Appeal (see Rule 4(a) of the Federal Rules of Appellate Procedure). In criminal proceedings, an appeal must be filed within ten days after entry of the judgment or order upon which the appeal is based (see Rule 4(b) of the Federal Rules of Appellate Procedure).

Appeal deadlines are calculated based on entry in the docket and not the filed date or signature date.

When a Notice of Appeal is filed, the appellant is responsible for completing a transcript order form (see Attachment V). This is an eight page form to be distributed as indicated on the bottom of each page. (Please refer to the back of the form for instructions.)

B. Appeal From Decision of United States Magistrate Judge

1. Civil Appeals

If an aggrieved party appeals a United States Magistrate Judge's decision, the same procedure established for appealing a decision of a District Judge (described above in section A) should be followed.

2. Criminal Appeals

In a criminal misdemeanor case, if an aggrieved party appeals a judgment of conviction by a United States Magistrate Judge to a District Judge, there is a \$25.00 filing fee. The District Clerk will assign a criminal case number, and a District Judge will be assigned by random draw.

C. Enforcement of a Judgment

1. Registration in Another District

To certify a judgment that has been entered in the Northern District for registration in another district, a written request must be submitted to the District Clerk's Office for preparation of a Certification of Judgment for Registration in Another District (see Attachment XVIII). There is a \$5.00 fee for certification plus \$0.50 per page charge for the judgment to be copied. Reproduction of the judgment must be done by the District Clerk's Office.

The requesting party is responsible for ensuring that all requirements of the district of intended registration have been met.

2. Registration in the Northern District

To register a judgment entered in another federal court with the Northern District, a Certification of Judgment for Registration in Another District should be obtained from the court that entered the original judgment. The completed certification must then be delivered to the District Clerk's Office with a \$20.00 filing fee. The certification will be filed by the District Clerk's Office and assigned a miscellaneous case number.

D. Writ of Execution

Writ of Execution forms are available from the District Clerk's Office and must be prepared by the requesting party (see Attachment XIX). A Writ of Execution must be accompanied by a USM 285 form (available from the Marshal's Office) for the Marshal to execute. An original and one copy of the Writ of Execution and USM285 must be delivered to the District Clerk's Office for issuance. If a USM 285 form does not accompany the Writ of Execution, the Writ will be returned to the requesting party. The requesting party will be notified upon issuance. There is no fee assessed by the District Clerk's Office for a Writ of Execution. The Marshal's Office, however, requires a fee for execution. If a confirmed copy of the writ of execution is requested, a self-addressed, stamped envelope is required.

E. Abstract of Judgment

Abstract of Judgment forms are available from the District Clerk's Office and must be prepared by the requesting party (see Attachment XX). An original and one copy of the Abstract of Judgment must be delivered to the District Clerk's Office for issuance. There is no fee for this service. Once the Abstract of Judgment has been issued, it will be returned to the requesting party. A self-addressed, stamped envelope is required for the return of the abstract.

F. Bill of Costs

A Bill of Costs form is prepared by the prevailing party (see Attachment XXI). The Bill of Costs should reflect all costs incurred by the party, including the applicable filing fee if the plaintiff is the prevailing party. The District Clerk's Office does not monitor fees or costs incurred during a suit except for those filing fees remitted to this Court.

Only the original Bill of Costs form is required for filing. Unless another date is specified by the Court, the Bill of Costs will be taxed by the District Clerk's Office twenty-four hours after filing if the amount is less than \$5,000. If the amount is \$5,000 or more, the Bill of Costs will be held ten days to allow objections to be filed. If any objection to the Bill of Costs is received before the date it is scheduled to be taxed, the Bill of Costs will not be taxed.

Please note that "taxing" consists only of stamping, signing, and sealing with the Court seal a filed Bill of Costs and placing it in the case record. The District Clerk's Office is not responsible for collecting or assisting in the collection of costs. A conformed copy of the Bill of Costs will be mailed to the requesting party only if an extra copy and a self-addressed, stamped envelope are provided to the District Clerk's Office.

VII. MISCELLANEOUS CASES

Miscellaneous case numbers are normally assigned to ancillary and supplementary matters filed with the Court that are not considered regular civil or criminal cases. However, these matters may be directly or indirectly related to a regular case. For example, registration of judgments from other districts and motions for protective orders via foreign subpoena are opened as miscellaneous cases.

There is a \$20.00 filing fee for miscellaneous cases. Filing fees are payable to "Clerk, United States District Court." Documents filed as miscellaneous actions are reviewed for conformity with the Federal Rules of Civil Procedure and the Local Rules of this District. Miscellaneous cases are processed in the same manner as documents filed in civil or criminal actions.

VIII. ELECTRONIC INFORMATION

A. Public Access to Court Electronic Records (PACER)

On-line review of docket sheets and case/party information is available 24-hours a day, seven days a week through the Public Access to Court Electronic Records (PACER) system. PACER is updated daily. Information can be downloaded using a personal computer with a modem. Other information currently available through PACER includes local rules, forms, answers to frequently asked questions, and the Attorney Handbook. However, this information will be removed as it is added to the Court's Internet website (see below). For information on subscribing to PACER, contact the PACER Service Center at:

P.O. Box 78054
San Antonio, TX 78278-0549
(800) 676-6856
fax: (210) 530-6255
e-mail: pacer@aottd.uscourts.gov

Subscribing to PACER is free, and access costs only 60¢ per minute.

B. Public Computer Terminals

Public computer terminals are available in all divisional offices in the Northern District of Texas. These terminals may be used to access court information at no charge.

C. Imaging and Faxing System (IFS)

The Dallas, Fort Worth, Amarillo, and Lubbock divisions offer attorneys and *pro se* litigants the option of receiving notice of orders and judgments via facsimile transmission in lieu of receiving paper copies by mail. This service will eventually be expanded to other divisions.

To receive orders and judgments via facsimile transmission, an attorney or *pro se* litigant must: (a) have a telephone number dedicated for facsimile transmissions and (b) execute an authorization form and return it to the District Clerk's Office (see Attachment XXVI). The facsimile number will appear on the public docket if authorization is given to receive orders and judgments via facsimile transmission.

D. Internet Website

The Court now has an Internet website. The website provides useful information such as judicial biographies, local rules, statistical information, forms and publications, and employment opportunities (see Attachment XXXI). **The website address is www.txnd.uscourts.gov.**

ATTACHMENTS